IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 372 OF 2005.

Parekh Platinum Limited. ... Petitioner.

V/s.

Deputy Commissioner of Income Tax
and others.. .. Respondents.

Rafiq Dada, senior counsel with Sanjeev Shah
and J.H.Motwani i/b. DSK Legal for the petitioner.

Deepak Tralshawala for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 1st April, 2005.

P.C. :

. This petition challenges the order passed by the assessing officer under section 142(2A) of the Income Tax Act, 1961 ("Act" for short) directing special audit in the case of the petitioner assessee.

2. During the course of hearing; it transpired that in the search and seizure operation other five group companies along with petitioner were involved. Consequently, they are under block assessment along with the petitioner company and the financial transactions with each of them are interwoven as per the contention of the respondents.

3. This special audit under section 142(2A) of the Act in case of each of the assessees (group companies) was ordered by the assessing officer but the same could not be proceeded with. Now the time limit permissible under the Act; for special audit in the case of petitioner as well as other group companies has expired and in respect of the group companies the Revenue is proceeding with the block assessment without special audit.

4. On the aforesaid premises, the petitioner herein has prayed for permission to withdraw this petition as in its belief there is no cause of action to proceed with the petition. According,y the petitioner has filed purshis. The same is taken on record and marked 'X' for identification.

5. The learned counsel for the respondents seriously objected for grant of permission to withdraw this petition. No rule in the petition has been issued. No interim stay at any time was granted by this Court though the petition was heard for sometime. In the circumstances, we do not see any impediment in the way of the petitioner to seek withdrawal of the petition. The petitioner cannot be compelled to proceed with the petition. At the

most while permitting withdrawal we may observe that it would always be open to Revenue to proceed against the petitioner in accordance with law. At the same time it would also be open to the petitioner to defend itself.

6. In the above view of the matter, the petitioner is allowed to withdraw this petition Keeping all the contentions of both parties open. Petition is disposed of accordingly with no order as to costs.

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